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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,858	09/29/2000	Daniel J. Bolda	99AB139-A	1079

7590 03/19/2002

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EXAMINER

JEANGLAUDE, JEAN BRUNER

ART UNIT	PAPER NUMBER
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2819

#9

DATE MAILED: 03/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/675,858

Applicant(s)

BOLDA ET AL.

Examiner

Jean B Jeanglaude

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 01-23-02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Response to amendments/ Arguments***

1. Applicant's arguments with respect to claims 32 - 69 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 66 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 66 recites the limitation "the control" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 32 – 69 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 31 of U.S. Patent No. 6,252,529. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 32 - 39 of the US Application Number 09/675,858 is the same as claim 1 of US Patent Number 6,252,529. By incorporating the limitations of the dependent claims 33 – 39 in the independent claim 32, one obtains the same limitations as claim 1 which were already claimed and patented in US Patent Number 6,252,529.

2. Claims 59 - 61 of the US Application Number 09/675,858 are the same as claim 1 of US Patent Number 6,252,529. By incorporating the limitations of the dependent claims 60, 61 in the independent claim 59, one obtains the same limitations as claim 1 which were already claimed and patented in US Patent Number 6,252,529.

3. Claims 40, 41 of US Application 09/675,858 is the same as claim 2 of US Patent Number 6,252,529 " a plurality of solid state switching devices within the feedback resistance circuit and the input resistance circuit and the resistances in the feedback resistance circuit and the input resistance circuit are selectively combinable by changing conductive states of the solid state switching devices."

4. Claim 42 of US Application 09/675,858 is the same as claim 3 of US Patent Number 6,252,529 " a control circuit coupled to the solid state switching devices, the control circuit applying control signals to the switching devices to place the switching devices in desired conductive states for combination of the resistances of the feedback and input resistances circuits."

5. Claim 43 of US Application 09/675,858 is the same as claim 7 of US Patent Number 6,252,529 " the input resistance of the inverting circuit is a fixed resistance."

6. Claim 44 of US Application 09/675,858 is the same as claim 8 of US Patent Number 6,252,529 " the feedback resistance of the non-inverting circuit is a fixed resistance."

7. Moreover, although the conflicting claims are not identical, they are not patentably distinct from each other because claims 45 – 48, 51 of the US Application Number 09/675,858 is the same as claim 27 of US Patent Number 6,252,529. By incorporating the limitations of the dependent claims 46 – 48, 51 in the independent claim 45, one obtains the same limitations as claim 27 which were as already claimed and patented in US Patent Number 6,252,529.

8. Claims 49, 50 of US Application 09/675,858 is the same as claim 28 of US Patent Number 6,252,529 " the plurality of resistances are selectively connectable by a series of solid state switches and the series of solid state switches are configured so that the plurality of resistances are in parallel with one another."

9. Furthermore, although the conflicting claims are not identical, they are not patentably distinct from each other because claims 52 – 55 of the US Application

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Number 09/675,858 is the same as claim 27 of US Patent Number 6,252,529. By incorporating the limitations of the dependent claims 53 – 55 in the independent claim 52, one obtains the same limitations as claim 27 which was as already claimed and patented in US Patent Number 6,252,529.

10. Claims 56 - 58 of US Application 09/675,858 is the same as claim 28 of US Patent Number 6,252,529 " the plurality of resistances are selectively connectable by a series of solid state switches and the series of solid state switches are configured so that the plurality of resistances are in parallel with one another."

11. Claim 62 of US Application 09/675,858 is the same as claim 2 of (US Patent Number 6,252,529) " a plurality of solid state switching devices in the feedback resistance circuit and the input resistance circuit and wherein a plurality of first resistances of the feedback resistance circuit and the input resistance circuit are selectively combinable by changing conductive states of the switching devices."

12. Claim 63 of US Application 09/675,858 is the same as claim 3 of (US Patent Number 6,252,529) " a control circuit coupled to the solid state switching devices, the control circuit applying control signals to the switching devices to place the switching devices in desired conductive states for combination of the resistances of the feedback and input resistance circuits."

13. Claim 64 of US Application 09/675,858 is the same as claim 4 of (US Patent Number 6,252,529) "the control circuit monitors an output signal derived from signals amplified by the inverting circuit and the non-inverting circuit, and generates the control signals based upon the output signal".

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14. Claim 65 of US Application 09/675,858 is the same as claim 5 of (US Patent Number 6,252,529) " an analog-to-digital converter coupled to outputs of the inverting and non-inverting circuits for generating a digital signal based upon the outputs".

15. Claim 66 of US Application 09/675,858 is the same as claim 6 of (US Patent Number 6,252,529) ""the control circuit monitors the digital signal and applies the control signals to the switching devices to maintain the digital signal within a desired range".

16. Claim 67 of US Application 09/675,858 is the same as claim 7 of (US Patent Number 6,252,529) " "wherein the input resistance of the inverting circuit is a fixed resistance".

17. Claim 68 of US Application 09/675,858 is the same as claim 8 of (US Patent Number 6,252,529) "wherein the feedback resistance of the non-inverting circuit is a fixed resistance".

18. Claim 69 of US Application 09/675,858 is the same as claim 9 of (US Patent Number 6,252,529) " wherein the feedback resistance circuit is configured to selectively place the plurality of first resistances in parallel with one another, and the input resistance circuit is configured to selectively place the plurality of second resistances in series with one another".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B Jeanglaude whose telephone number is 703-

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306-3405. The examiner can normally be reached on Monday - Friday 7:30 A. M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Tokar can be reached on 703-305-3493. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

JBIG

March 1, 2002

*Jean Bruner Jansland*